

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

C&S WHOLESALE GROCERS, INC.,

Plaintiff,

v.

GROCERY HAULERS, INC.,

Defendant.

Civil Action No: 1-11-cv-00127-LM

**JOINT STIPULATION AND ORDER
TO MODIFY DISCOVERY PLAN AND TRIAL DATE**

WHEREAS, the Plaintiff C&S Wholesale Grocers, Inc. (“C&S”) and the Defendant Grocery Haulers, Inc. (“GHI”) have been actively engaged in conducting discovery in the above-captioned matter, and have exchanged initial disclosures, requests for the production of documents and responses, interrogatories and answers to interrogatories;

WHEREAS the Parties have recently completed document discovery and are commencing depositions;

WHEREAS neither Party currently plans to use an expert in the above-captioned matter (the current deadline for close of fact and expert discovery is September 21, 2012);

WHEREAS the Parties have also been actively engaged in litigating two other parallel proceedings between the Parties, both pending in the United States District Court for the Southern District of New York and styled as *Grocery Haulers, Inc. v. C&S Wholesale Grocers, Inc.*, U.S.D.C. S.D.N.Y., Civil Action No: 11-CV-3130 and *Grocery Haulers, Inc. v. C&S Wholesale Grocers, Inc.*, U.S.D.C. S.D.N.Y., Civil Action No.: 12-CV-2651;

WHEREAS, although the Parties have worked diligently to comply with the Discovery Plan as approved by the Court in the above-captioned matter, the Parties believe that additional time will be necessary in the instant action to complete discovery and prepare summary judgment motions;

NOW, THEREFORE, the Parties hereby stipulate and agree, and propose to the Court for entry as an Order, that the current discovery plan proposed by the Parties and entered by the Court on June 1, 2012 be modified as follows:

1. Date fact discovery will be completed: October 19, 2012;
2. Date for Motions for Summary Judgment: November 16, 2012;
3. Trial shall take place the trial period beginning March 19, 2013.

Alternatively, though the Parties believe a postponement of the current trial date is necessary, should the Court decide otherwise, the Parties propose to the Court for entry as an Order, that the current discovery plan be modified as follows:

1. Date fact discovery will be completed: September 28, 2012;
2. Date for Motions of Summary Judgment: October 8, 2012;
3. Trial shall take place the trial period beginning February 5, 2012.

Dated: August 30, 2012

Respectfully Submitted,

C&S WHOLESALE GROCERS, INC.,

By its attorneys,

/s/ Benjamin L. Hincks
Gordon J. MacDonald
N.H. Bar. No. 11011
NIXON PEABODY LLP
900 Elm Street
Manchester, NH 03101
Telephone: 603-628-4000
Fax: 603-628-4040
gmacdonald@nixonpeabody.com

Benjamin L. Hincks, Esq. (Admitted *pro hac vice*)
Michael J. Ticcioni, Esq. (Admitted *pro hac vice*)
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, MA 02111
Telephone: 617-542-6000
Fax: 617-542-2241
bhincks@mintz.com
mjticcioni@mintz.com


GROCERY HAULERS, INC.

By its attorneys,

/s/ Arnold Rosenblatt
Arnold Rosenblatt
N.H. Bar. No. 2879
COOK, LITTLE, ROSENBLATT & MANSON, PLLC
1000 Elm Street
Manchester, NH 03101
(603) 621-7100
a.rosenblatt@clrm.com

Stephen B. Selbst, Esq. (Admitted *pro hac vice*)
William R. Fried, Esq (Admitted *pro hac vice*)
HERRICK, FEINSTEIN LLP
2 Park Avenue
New York, New York 10016
Tel: (212) 592-1400
wfried@herrick.com
sselbst@herrick.com

SO ORDERED:



Hon. Landya B. McCafferty

Date: 9 / 4 / 2012

6743224v.1